

EXHIBIT 4

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION

4 CHASOM BROWN, WILLIAM BYATT,
5 JEREMY DAVIS, CHRISTOPHER
6 CASTILLO, and MONIQUE TRUJILLO,
7 individually and on behalf of
8 all other similarly situated

9 Plaintiffs,

CASE NO.

5:20-CV-03664-LHK-SVK

VS.

10 GOOGLE LLC

11 Defendant.

12 ZOOM VIDEOTAPED DEPOSITION OF WILLIAM BYATT

December 20, 2021

13 11:04 a.m. EST

14
15
16 TAKEN BY:

17 VIOLA TREBICKA, ESQ.

ATTORNEY FOR DEFENDANT

18
19 REPORTED BY:

20 BELLE VIVIENNE, CRR

CERTIFIED STENOGRAPHIC

21 REALTIME COURT REPORTER

VERITEXT LEGAL SOLUTIONS

22 JOB NO. 5001125

866 299-5127

1 speech, it -- it's all right and I 11:10:56
2 understand what you mean when you say 11:10:59
3 uh-huh or something that's not verbal. 11:11:01
4 Please do verbalize your answers for the 11:11:04
5 court reporter. 11:11:07
6 A. I may require reminders, but 11:11:07
7 I'll certainly try. 11:11:10
8 Q. I will remind you. 11:11:11
9 So you -- earlier you talked 11:11:12
10 about private -- about Incognito, correct? 11:11:14
11 A. I did, yes. 11:11:19
12 Q. So you do browsing in Incognito, 11:11:20
13 correct? 11:11:22
14 A. Yes. 11:11:22
15 Q. Do you continue to browse in 11:11:23
16 Incognito today? 11:11:25
17 A. Occasionally, yes. 11:11:25
18 Q. How often, presently, how often 11:11:28
19 do you browse? 11:11:32
20 A. That I wouldn't be able to tell 11:11:33
21 you. I don't particularly keep track. 11:11:36
22 Certainly -- yeah, I don't think I could 11:11:40
23 say with specificity. It comes in fits 11:11:46
24 and bursts. You know, sometimes I might 11:11:49
25 spend several hours browsing multiple days 11:11:52

1 in a week and sometimes I might go weeks 11:11:58
2 without opening it. 11:12:01

3 Q. And when you say "it," you mean 11:12:02
4 Incognito? 11:12:04

5 A. I mean Incognito, yes. 11:12:05

6 Q. Understood. Have you changed 11:12:06
7 your browsing behavior on Incognito since 11:12:07
8 the filing of this lawsuit? 11:12:10

9 A. I have wanted to. I may have 11:12:12
10 some, but I felt that it would be best to 11:12:16
11 try to continue my behavior as sort of 11:12:20
12 normally as possible. I'm not sure how 11:12:24
13 effective that is with sort of the -- the 11:12:29
14 awareness and thinking about this more. 11:12:34
15 But it's been -- it's been roughly pretty 11:12:35
16 similar. 11:12:40

17 Q. You say you -- that you have 11:12:40
18 tried to -- or you said that you -- it 11:12:43
19 would be best to try to continue your 11:12:47
20 behavior as normal. 11:12:48

21 What do you mean by that? 11:12:51

22 A. Yeah. So when -- when this 11:12:52
23 lawsuit is over, I will probably quit 11:12:53
24 using Chrome altogether, but I have felt 11:12:58
25 that for -- you know, I've been advised by 11:13:03

1 my attorneys -- 11:13:08

2 MR. LEE: Hold on. Hold on. 11:13:09

3 So let me just give you a quick 11:13:11

4 instruction. It is -- in these 11:13:14

5 depositions, you should not reveal any 11:13:16

6 communications you've had with your 11:13:18

7 attorneys. 11:13:20

8 THE WITNESS: Okay. 11:13:20

9 MR. LEE: So if you can answer 11:13:21

10 this question without revealing any 11:13:22

11 communications that you've had with 11:13:23

12 any of your attorneys, happy for you 11:13:24

13 to do that; if you can't, then don't 11:13:29

14 answer the question. 11:13:30

15 THE WITNESS: Okay. 11:13:31

16 A. But, yeah. So it -- it has 11:13:32

17 seemed as though continuing to behave as 11:13:33

18 normally as possible until the end of the 11:13:37

19 lawsuit is what would make the most sense. 11:13:40

20 BY MS. TREBICKA: 11:13:40

21 Q. And what do you understand by 11:13:46

22 the term "Incognito browsing"? 11:13:47

23 A. I understand it to mean -- well, 11:13:51

24 first of all, what Google tells me it 11:13:53

25 means when I open it and there's this 11:13:56

1 Q. And if I asked you what the 12:57:14
2 reason is that you go on Incognito 12:57:16
3 generally, not just for The New York 12:57:18
4 Times, would it be the same answer or 12:57:20
5 would it differ? 12:57:22

6 A. The general answer for the 12:57:24
7 reason that I go on to Incognito mode is 12:57:26
8 to keep Google primarily across all of 12:57:29
9 their services from Chrome to Analytics 12:57:34
10 and their advertising services from having 12:57:37
11 records of my behavior, and also to avoid 12:57:43
12 paywalls and log out of Reddit, but that 12:57:59
13 is certainly the primary reason I do it. 12:58:01

14 Q. When you go on Incognito, do you 12:58:03
15 ever sign into your Google account? 12:58:06

16 A. Very, very rarely. 12:58:08

17 Q. And why would -- if you do, why 12:58:09
18 do you do that? 12:58:11

19 A. On my own computers, I'm not 12:58:17
20 sure I ever have. The only times I can 12:58:20
21 think of that I would have done that is 12:58:23
22 if, for example, I was using someone 12:58:25
23 else's computer and someone else's Chrome 12:58:27
24 and I opened Incognito, so that their 12:58:30
25 experience didn't -- wasn't sort of 12:58:35

1 the web privately using Chrome in 14:19:40
2 Incognito mode. 14:19:43

3 Q. So you understood that sentence 14:19:44
4 to tell you that it would not be shared 14:19:46
5 with Google? 14:19:47

6 A. That's correct because that's 14:19:49
7 what it says. 14:19:50

8 Q. Do you recall your earlier 14:19:52
9 testimony about The New York Times privacy 14:20:44
10 policy? 14:20:52

11 A. I don't recall it verbatim, but, 14:20:52
12 yes. I remember the line of questioning 14:20:54
13 you're talking about, yes. 14:20:55

14 Q. And you recall that The New York 14:20:57
15 Times's privacy policy generally disclosed 14:21:03
16 that certain information they would 14:21:05
17 collect would also be shared with their 14:21:07
18 service providers; do you recall that? 14:21:09

19 A. I do. I also recall The New 14:21:11
20 York Times saying that they were sharing 14:21:15
21 in accordance with the Google privacy 14:21:18
22 policy, which is the document that led me 14:21:20
23 to believe that being in Incognito mode, 14:21:22
24 my information would be private. 14:21:26

25 Q. So what, in this particular 14:21:28

1 document, not necessarily this version, 14:21:33
2 but in the Google privacy policy led you 14:21:36
3 to believe that the websites, third-party 14:21:39
4 websites would not be sharing your 14:21:43
5 information with Google among other 14:21:45
6 service providers when you were browsing 14:21:49
7 in Incognito mode, although they 14:21:51
8 themselves would receive it? 14:21:54

9 A. The part where it says I can 14:21:57
10 also choose to browse the web privately. 14:21:58
11 The part that says that I'm in control of 14:22:01
12 how Google receives my information. 14:22:04
13 And -- and the part in The New York Times 14:22:07
14 document where it says that they abide by 14:22:11
15 this as well. 14:22:13

16 Q. Anything else? 14:22:15

17 A. Probably. It's a 28-page 14:22:18
18 document, but those are certainly the most 14:22:21
19 salient parts that led me to believe that. 14:22:23

20 Q. Okay. Well, take your time and 14:22:25
21 not restricting the time that you can 14:22:26
22 spend reviewing the document, anything 14:22:29
23 else in this document that you believe 14:22:30
24 supports your interpretation? 14:22:33

25 A. Yeah, the document. You know, I 14:22:37

1 the same session open for more than ten 14:29:38
2 days? 14:29:39
3 A. I have no idea. 14:29:40
4 Q. Could have, could not have, you 14:29:40
5 just don't know? 14:29:42
6 A. That's correct. 14:29:43
7 Q. What about more than 50 days? 14:29:43
8 A. Well, I think the first question 14:29:47
9 in this line was what's the longest you've 14:29:49
10 had it open and I didn't know the answer 14:29:51
11 to that. I'm not going to know the answer 14:29:54
12 to any particular time limit. I guess 14:29:56
13 more -- I definitely never had one open 14:30:01
14 for more than 14 years. You know, like, I 14:30:04
15 really don't know how long I've had one 14:30:07
16 open, and I can't say for any particular 14:30:09
17 length of time that is, you know, 14:30:11
18 physically possible. 14:30:13
19 Q. Do you have one open right now 14:30:15
20 in your computer at home? 14:30:17
21 A. I don't know. 14:30:26
22 Q. You may have, may not have, you 14:30:27
23 just don't recall? 14:30:29
24 A. That's correct. 14:30:30
25 Q. All right. So back to the 14:30:36

1 Incognito new tab page, which you have in 14:30:39
2 front of you as Exhibit 8, it says here 14:30:41
3 "Now you can browse privately, and other 14:30:44
4 people who use this device won't see your 14:30:47
5 activity." Do you see that? 14:30:50

6 A. I see both of those two clauses 14:30:53
7 that you just read, yes. 14:30:56

8 Q. Why do you say "both of those 14:30:56
9 two clauses"? What do you mean by that? 14:30:58

10 A. Well, I understand "now you can 14:31:00
11 browse privately and other people who use 14:31:03
12 this device won't see your activity" to 14:31:04
13 both tell me something -- 14:31:07

14 Q. What do they tell you -- 14:31:08

15 A. -- separately. 14:31:14

16 Q. What do they tell you? 14:31:21

17 A. The first one "Now you can 14:31:23
18 browse privately," tells me that my 14:31:25
19 browsing will be private. The other one, 14:31:28
20 the second half "and other people who use 14:31:31
21 this device won't see your activity," 14:31:33
22 tells me that other people who use this 14:31:36
23 device won't see my activity. 14:31:39

24 MR. LEE: You're doing great, 14:31:55
25 just slow down for the court reporter. 14:31:56

1 that he's not knowledgeable on or has 14:37:14
2 no personal knowledge on. And for you 14:37:17
3 to suggest that that answer is somehow 14:37:18
4 improper is -- is objectionable, and I 14:37:20
5 will speak up every time you do that. 14:37:24
6 So you can conduct your -- your 14:37:25
7 examination any way you see fit, and I 14:37:27
8 will make my record any way I see fit. 14:37:30
9 BY MS. TREBICKA: 14:37:30
10 Q. So, Mr. Byatt, I'm trying to 14:37:34
11 understand what it means in your mind for 14:37:37
12 data to be linked to you. So -- so my 14:37:39
13 question is, if the information -- or 14:37:43
14 rather what it means in your mind for data 14:37:48
15 to be private or -- or private browsing or 14:37:50
16 data that is related to your private 14:37:56
17 browsing, right? So data from your 14:37:58
18 private browsing, if it is not linked to 14:38:01
19 you or your identity, do you consider that 14:38:03
20 not to be private? 14:38:06
21 MR. LEE: Objection, improper 14:38:08
22 hypothetical, calls for speculation. 14:38:09
23 A. I'm not -- I'm not sure what you 14:38:12
24 mean by "identity," right? Like so if 14:38:14
25 there -- if I had a nude picture of myself 14:38:17

Page 133

1 that had my face blurred out and my name 14:38:21
2 not attached to it and it was being shared 14:38:23
3 without my permission, I would absolutely 14:38:26
4 consider that a violation of my privacy. 14:38:29
5 I don't think that someone needs to have 14:38:34
6 my name for it to be a violation of 14:38:36
7 privacy. I think when Google has 14:38:40
8 behavioral data about things that I have 14:38:43
9 done, that is me, that is what I am doing, 14:38:45
10 and if they have that data, that is not 14:38:49
11 private. 14:38:51
12 BY MS. TREBICKA: 14:38:51
13 Q. So if an IP address related to 14:38:52
14 your private browsing is collected, do you 14:38:54
15 consider that to be violating your 14:38:57
16 privacy? 14:39:01
17 MR. LEE: Objection, improper 14:39:03
18 hypothetical, calls for speculation. 14:39:05
19 Go ahead. 14:39:09
20 A. I think -- I think that -- yeah, 14:39:12
21 it could be. I think that I don't know 14:39:18
22 about specific contexts, I guess, and I 14:39:21
23 think the concern here is that Google told 14:39:26
24 me that there was certain information that 14:39:32
25 they could collect, told me that I could 14:39:34

Page 134

1 be in control of what information was 14:39:36
2 collected, told me that the way that I 14:39:39
3 could exercise control was by browsing in 14:39:41
4 Incognito mode. And then while browsing 14:39:44
5 in Incognito mode, they collected the 14:39:47
6 information that they told me I could stop 14:39:49
7 them from collecting, and I think that is 14:39:52
8 a -- yeah, a clear -- like, I asked them 14:39:56
9 not to. Like it's not even -- it's not 14:40:01
10 even a case of not consenting. By opening 14:40:05
11 Incognito, I have explicitly said don't 14:40:11
12 collect the information that you said I 14:40:13
13 could control the collection of by opening 14:40:16
14 Incognito mode. So, yeah, that -- that -- 14:40:18
15 if that information includes IPs, then, 14:40:22
16 yes, collecting that is a violation of 14:40:24
17 that privacy. 14:40:26
18 BY MS. TREBICKA: 14:40:26
19 Q. Do you mean that the word 14:40:37
20 "privately" and "private browsing" means 14:40:41
21 that your Internet browsing activity will 14:40:44
22 be concealed from everyone? 14:40:46
23 A. Well, in the case of Incognito, 14:40:48
24 I'd expect it to be concealed from Google 14:40:49
25 because they told me it was going to be 14:40:52

1	concealed from Google.	14:40:54
2	Q. Just from Google, right? That's	14:40:56
3	your understanding?	14:40:58
4	A. So if we look on the Incognito	14:40:58
5	splash screen or what you called the new	14:41:00
6	tab page, it lists a few entities that the	14:41:04
7	activity may still be visible to. I	14:41:06
8	believe that disclosure, I believe that it	14:41:10
9	could be visible to the websites, to my	14:41:13
10	employer or school if I'm on the employer	14:41:16
11	or school network to the Internet service	14:41:18
12	provider, but it doesn't say Google here.	14:41:21
13	It doesn't say my activity might still be	14:41:24
14	visible to Google. So I understood this	14:41:26
15	as -- and that would have been a great	14:41:29
16	place for Google to put Google. So I	14:41:32
17	understood this is my information not	14:41:36
18	being visible to Google.	14:41:39
19	Q. Do you browse privately on other	14:41:43
20	browsers as well, other than Chrome?	14:41:49
21	A. I -- I couldn't say. Yeah, I	14:41:55
22	don't recall with specificity, but maybe.	14:42:04
23	Q. But your testimony here today is	14:42:15
24	that Google should have been included in	14:42:18
25	this new tab page because why? Why would	14:42:20

Page 136

1 (Exhibit 9, Document entitled 14:49:44
2 How Private Browsing Works in Chrome, 14:49:44
3 marked for identification.) 14:49:46
4 MR. LEE: I'm perfectly happy 14:49:46
5 for you to call me James. Okay. 14:49:48
6 BY MS. TREBICKA: 14:49:48
7 Q. Can you both see Exhibit 9? 14:49:52
8 MR. LEE: Yes. 14:49:56
9 A. Yes. 14:49:56
10 BY MS. TREBICKA: 14:49:56
11 Q. Mr. Byatt, have you seen this 14:49:58
12 document or something that looks like this 14:49:59
13 document before? 14:50:02
14 A. I don't know. 14:50:03
15 Q. May have, may not have, you just 14:50:05
16 don't know? 14:50:07
17 A. That's correct. 14:50:08
18 Q. Does it look familiar? 14:50:09
19 A. I don't know. 14:50:11
20 Q. Take a minute to read it. 14:50:14
21 A. This one is short. I have read 14:50:18
22 this document. 14:50:19
23 MR. LEE: And let me interpose 14:50:21
24 an objection based on lack of 14:50:23
25 foundation, which I request, I have a 14:50:25

Page 142

1 standing objection for, for this 14:50:27
2 document. 14:50:28
3 MS. TREBICKA: And, Mr. Lee, 14:50:31
4 just so that I understand, your -- the 14:50:33
5 basis for your lack of foundation 14:50:34
6 objection is? 14:50:35
7 MR. LEE: Is you -- you have not 14:50:37
8 laid the proper predicate that he's 14:50:38
9 reviewed or is familiar with this 14:50:40
10 document, so I'm not sure why you're 14:50:42
11 going to ask him about it. 14:50:44
12 MS. TREBICKA: Your standing 14:50:47
13 objection is noted. 14:50:48
14 MR. LEE: Thank you. 14:50:49
15 BY MS. TREBICKA: 14:50:49
16 Q. So you've reviewed it now, 14:50:56
17 Mr. Byatt? 14:51:00
18 A. I have, yes. 14:51:01
19 Q. Okay. Can you take a look at 14:51:02
20 the first page where it says "Your 14:51:06
21 activity might still be visible"? 14:51:10
22 A. I see that page. 14:51:13
23 Q. And it says -- and I'll just 14:51:15
24 read it into the record and you'll make 14:51:17
25 sure to go slow. "Incognito mode stops 14:51:19

Page 143

1 Chrome from saving your browsing activity 14:51:21
2 to your local history. Your activity, 14:51:24
3 like your location, might still be visible 14:51:27
4 to" and then it has a bunch of bullet 14:51:30
5 points. And the first one is "websites 14:51:32
6 you visit, including the ads and resources 14:51:35
7 used on those sites"; do you see that? 14:51:39

8 A. I do see that. 14:51:41

9 Q. And earlier today during this 14:51:43
10 deposition, we established that ads and 14:51:46
11 resources used on those sites could mean 14:51:50
12 Google ads and resources, including Google 14:51:53
13 Analytics, right? 14:51:57

14 A. I'm not sure if we have 14:52:01
15 established that. I -- that feels like 14:52:05
16 courtroom words. I don't -- I'm 14:52:09
17 uncomfortable saying yes to that, but I 14:52:12
18 understand what you are saying right now. 14:52:15

19 Q. So your testimony is that you 14:52:17
20 didn't agree earlier today that websites 14:52:18
21 could use Google Analytics, for example, 14:52:21
22 as a service? 14:52:24

23 A. I -- I think that and what you 14:52:26
24 just said might be two different things. 14:52:28
25 If I'm misunderstanding, that's fine, but 14:52:29

1 I do agree that websites use Google 14:52:32
2 Analytics as a service. 14:52:36

3 Q. Do you understand that websites 14:52:36
4 also sometimes use Google ads as a 14:52:38
5 service? 14:52:40

6 A. Yes. 14:52:42

7 Q. And here, it says that your 14:52:42
8 activity in Incognito may be visible to 14:52:44
9 the websites you visit, including the ads 14:52:47
10 and resources used on those sites; is that 14:52:50
11 correct? 14:52:53

12 A. I see that it says this here, 14:52:54
13 but I'm not sure that I have seen this 14:52:55
14 document before, and what I am sure that I 14:52:57
15 have seen is the Incognito splash screen 14:52:58
16 that tells me that I can browse privately 14:53:00
17 and I am sure that I have seen the privacy 14:53:02
18 policy that says that Incognito mode is 14:53:05
19 how I can control what information is 14:53:07
20 given to Google. 14:53:10

21 MS. TREBICKA: Move to strike as 14:53:12
22 nonresponsive. 14:53:14

23 BY MS. TREBICKA: 14:53:14

24 Q. My question is: This document 14:53:15
25 here that I am showing you says that your 14:53:18

1 activity in Incognito may be visible to 14:53:25
2 the websites you visit, including the ads 14:53:29
3 and resources used on those sites, right? 14:53:31
4 A. Yes, I agree that this document 14:53:34
5 says that. 14:53:36
6 Q. So had you read this document, 14:53:37
7 you would have known that your activity in 14:53:38
8 Incognito may be visible to the websites 14:53:42
9 you visit, including the ads and resources 14:53:44
10 used on those sites, correct? 14:53:47
11 MR. LEE: Objection to form. 14:53:49
12 Calls for speculation. 14:53:51
13 A. Yeah. So I guess if I had read 14:53:55
14 it, I would have understood that it might 14:53:56
15 still be visible to websites I visit, 14:53:59
16 including the ads and resources. It does 14:54:03
17 not say here, that I see, that that 14:54:06
18 definitely includes Google ads, Google 14:54:11
19 Analytics. 14:54:19
20 It does not see -- say that this 14:54:19
21 overrides the -- the privacy policy or the 14:54:23
22 splash screen. But, yeah, I see that it 14:54:27
23 says might. I see that some of these 14:54:31
24 might be visible to our ads and resources, 14:54:33
25 I do see that. 14:54:38

1 MR. LEE: Viola, we've been 14:54:42
2 going for over an hour. I'd like to 14:54:43
3 take a break in the next few. 14:54:47
4 MS. TREBICKA: Okay. I 14:54:49
5 understand. Just give me a second to 14:54:50
6 see if I can finish this up and then 14:54:52
7 we can -- 14:54:54
8 MR. LEE: Sure. 14:54:54
9 MS. TREBICKA: Yeah. 14:54:55
10 A. I can give a little bit of 14:55:23
11 clarity into that last answer too if 14:55:25
12 that's helpful. 14:55:26
13 BY MS. TREBICKA: 14:55:27
14 Q. We'll move on with my 14:55:27
15 questioning. Thank you. 14:55:28
16 So I'd like -- 14:55:30
17 MS. TREBICKA: Actually, James, 14:55:32
18 I would like to move on to a new 14:55:34
19 document. Would you rather take a 14:55:36
20 break now or have me move on? 14:55:37
21 MR. LEE: Yeah, let's take a 14:55:39
22 break now. 14:55:40
23 MS. TREBICKA: Okay. 14:55:40
24 MR. LEE: I generally want to 14:55:41
25 keep it, for everyone's sake, about an 14:55:42

1 previously at minimum. 15:16:59

2 (Exhibit 11, Second Amended 15:17:11

3 Complaint, marked for identification.) 15:17:11

4 BY MS. TREBICKA: 15:17:11

5 Q. We've marked as Exhibit 10 the 15:17:11

6 Second Amended Complaint in this lawsuit. 15:17:17

7 So -- I believe it's Exhibit 10. 15:17:21

8 THE COURT REPORTER: I thought 15:17:26

9 there was a previous Exhibit 10. 15:17:27

10 MS. TREBICKA: Exhibit 11. I 15:17:28

11 apologize. 15:17:34

12 A. I have Exhibit 11 open. 15:17:37

13 BY MS. TREBICKA: 15:17:37

14 Q. Do you recognize this document, 15:17:54

15 Mr. Byatt? 15:17:55

16 A. Yes. 15:17:56

17 Q. What is it? 15:17:56

18 A. It's the second amended 15:17:57

19 complaint in this lawsuit. 15:18:00

20 Q. Have you read it? 15:18:02

21 A. I have. 15:18:03

22 Q. Did you read it before it was 15:18:03

23 filed? 15:18:06

24 A. I did. 15:18:06

25 Q. Did you have any changes to it? 15:18:10

1	A. I don't recall. That also	15:18:13
2	sounds privileged. I don't know -- it	15:18:16
3	sounds like you're talking about	15:18:17
4	conversations between me and my attorney	15:18:19
5	so I -- I don't know, I -- I don't recall	15:18:22
6	either way.	15:18:24

7 MR. LEE: It's a very good 15:18:25

8 point, Mr. Byatt. Thank you. 15:18:26

9 BY MS. TREBICKA: 15:18:26

10	Q. And I'm certainly not asking	15:18:28
11	about the contents of any communications.	15:18:29
12	It was a different question, but thank you	15:18:32
13	for that.	15:18:34

14	A. Yeah.	15:18:35
----	----------	----------

15	Q. That you are attuned to those	15:18:36
16	issues. Let me direct your attention to	15:18:38
17	paragraph 282.	15:18:43

18	A. Do you know what page number	15:18:51
19	just to make my life a little easier?	15:18:52

20	Q. I will give it you in a second.	15:18:54
----	------------------------------------	----------

21	A. Okay.	15:18:54
----	----------	----------

22	Q. You may know before I do. I'm	15:18:58
23	still scrolling.	15:19:01

24	A. Me too. I'm at 147. I'm almost	15:19:02
25	there.	15:19:08

1 Q. Okay. It's -- it's page 73 of 15:19:08
2 the PDF. 15:19:13
3 A. I am looking at paragraph 282. 15:19:14
4 Q. And paragraph 282 says 15:19:21
5 "Plaintiffs and Class members have 15:19:23
6 suffered injury-in-fact, including the 15:19:25
7 loss of money and/or property as a result 15:19:27
8 of Google's unfair and/or unlawful 15:19:29
9 practices"; do you see that? 15:19:33
10 A. I do, yes. 15:19:35
11 Q. And I'm -- for the record, to be 15:19:36
12 clear, I'm not reading the entirety of 15:19:38
13 that sentence or paragraph into the 15:19:40
14 record. Feel free to review it if you 15:19:42
15 need to answer my question, which is: 15:19:45
16 What money did you lose as a result of 15:19:47
17 Google's alleged conduct? 15:19:52
18 A. Google has taken the data, which 15:19:55
19 is my property and also, my -- by running 15:19:58
20 analytics, collecting data, using my 15:20:07
21 computing power and bandwidth, that does, 15:20:10
22 you know, quite literally cost 15:20:13
23 electricity, it is part of the monthly 15:20:16
24 bills I pay for -- for electric and 15:20:21
25 Internet. 15:20:22

1 And Google is using the 15:20:23
2 electricity and transmitting over that 15:20:25
3 Internet without my consent. But also, 15:20:27
4 like I said more directly, they've taken 15:20:31
5 the property, which is my data. 15:20:33

6 Q. So my question was limited to 15:20:36
7 the money portion. We'll get to the 15:20:37
8 property portion as well. 15:20:39

9 But as far as the money portion, 15:20:41
10 is there anything else that you contend is 15:20:43
11 the money that you have lost as a result 15:20:48
12 of Google's alleged conduct in this 15:20:50
13 lawsuit? 15:20:52

14 MR. LEE: Hold on. Let me -- 15:20:54
15 let me just object to the extent this 15:20:55
16 calls for a legal conclusion or an 15:20:59
17 expert opinion. 15:21:00

18 A. So with those direct losses, 15:21:04
19 the -- the electricity and data bandwidth 15:21:08
20 that it has cost me, it's also -- I -- I 15:21:12
21 subscribe to multiple Google services and 15:21:18
22 I'm not sure that I necessarily would have 15:21:25
23 done that if I weren't sort of in the 15:21:29
24 Google product ecosystem with, you know, 15:21:33
25 Chrome as my primary touch point. 15:21:35

1 So I -- I could reasonably see 15:21:41
2 that other money that I have spent on 15:21:46
3 Google products or services was spent, in 15:21:49
4 part, due to this misrepresentation. 15:21:53
5 BY MS. TREBICKA: 15:21:53
6 Q. Anything else? 15:21:58
7 A. Not that I can think of at the 15:22:00
8 moment. 15:22:02
9 Q. This also says that you suffered 15:22:06
10 a loss of property; is that right? 15:22:08
11 A. It uses "and/or," not "also." 15:22:13
12 So I want that clarification, but yes. 15:22:19
13 Q. Did you, in fact, suffer a loss 15:22:21
14 of property as a result of Google's 15:22:22
15 conduct? 15:22:24
16 A. Yes. Google took my personal 15:22:24
17 data without my information. That 15:22:27
18 personal data is mine. It's my property. 15:22:28
19 MR. LEE: Did you say without my 15:22:30
20 information or -- 15:22:31
21 THE WITNESS: Without my 15:22:33
22 consent. They took my personal 15:22:33
23 information without my authorization. 15:22:35
24 BY MS. TREBICKA: 15:22:35
25 Q. Anything else? 15:22:37

1 A. Give me just a moment, please. 16:15:11
2 Yeah, I do. 16:15:13
3 Q. And what is this document? 16:15:14
4 A. Same thing as the others. It is 16:15:17
5 my responses to some questions from 16:15:19
6 Google. 16:15:24
7 Q. Okay. 16:15:25
8 MS. TREBICKA: And same note as 16:15:30
9 to this amended response and 16:15:33
10 objection, we have not yet received 16:15:37
11 Mr. Byatt's verification. We trust it 16:15:39
12 will come shortly. 16:15:43
13 BY MS. TREBICKA: 16:15:45
14 Q. But, Mr. Byatt, did you review 16:15:45
15 to make sure that it is -- the responses, 16:15:46
16 that they are, to the best of your 16:15:49
17 understanding and belief? 16:15:52
18 A. When I got this document, I did 16:15:54
19 do that. Let me -- give me just a moment 16:15:58
20 to check and make sure that this is what I 16:16:02
21 remember reviewing. 16:16:04
22 Yeah, this looks right, as best 16:16:29
23 as I can remember. 16:16:33
24 Q. You're aware of companies like 16:16:36
25 Killi or Brave; is that right? 16:16:40

Page 207

1	A. Yes.	16:16:44
2	I don't know if you got my	16:16:58
3	answer, but I said, yes, I'm aware of	16:16:59
4	these.	16:17:02
5	Q. What is Killi?	16:17:02
6	MS. TREBICKA: It's -- for the	16:17:03
7	record, it's K-I-L-L-I.	16:17:04
8	A. I know that Killi is in the	16:17:06
9	space of allowing people to monetize some	16:17:15
10	of their private information. I can't	16:17:20
11	remember exactly what their business model	16:17:23
12	is right now. I know that that whole	16:17:28
13	space is shifting pretty rapidly.	16:17:30
14	BY MS. TREBICKA:	16:17:30
15	Q. And you've never attempted to	16:17:33
16	monetize your personal information on	16:17:35
17	Killi?	16:17:37
18	A. I have not attempted to, no.	16:17:38
19	Q. What is Brave?	16:17:39
20	A. Brave is a web browser that has	16:17:42
21	built-in sort of privacy features and also	16:17:47
22	allows you to sell -- I think they allow	16:17:51
23	you to sell your attention. Basically	16:17:54
24	they'll -- they'll serve you ads and pay	16:17:58
25	you to look at those ads, I believe, but	16:18:00

Page 208

1	it's a web browser.	16:18:05
2	Q. Have you ever used Brave?	16:18:09
3	A. I have used Brave, yes.	16:18:10
4	Q. Have you gotten paid for using	16:18:12
5	Brave?	16:18:14
6	A. I have not.	16:18:15
7	Q. Earlier we talked about browsing	16:18:16
8	on Incognito in Chrome. Do you recall	16:18:23
9	that? We talked about it a lot --	16:18:27
10	A. Yes.	16:18:30
11	Q. -- frankly, I just always feel	16:18:30
12	the need to preface this with what we've	16:18:32
13	talked about.	16:18:34
14	A. Yes, I do remember that.	16:18:36
15	Q. Okay. And also from some of	16:18:38
16	your interrogatory responses, we know that	16:18:39
17	you used Incognito to browse	16:18:42
18	adult-oriented websites including	16:18:46
19	websites -- or adult-oriented websites and	16:18:50
20	websites like The New York Times, for	16:18:54
21	example; is that correct?	16:18:55
22	A. That's correct, yes.	16:18:57
23	Q. What are adult-oriented	16:18:58
24	websites?	16:19:00
25	A. Pornography websites.	16:19:04

Page 209

1 that personal data from Google and other 16:21:41
2 tech company's collection for their own 16:21:44
3 benefit and profit"; do you see that? 16:21:46
4 A. I do. 16:21:48
5 Q. Is that a correct statement? 16:21:49
6 A. Yes, that seems correct to me. 16:21:51
7 Q. And skipping over the -- or 16:21:57
8 actually, just continuing -- continuing on 16:21:59
9 with your answer, it says "Plaintiff Byatt 16:22:01
10 cannot recall specifically when he learned 16:22:04
11 of websites like Killi, but he knew about 16:22:06
12 companies like Brave and others that 16:22:09
13 provide monetary compensation for personal 16:22:12
14 data before filing this lawsuit. To the 16:22:14
15 best of Plaintiff Byatt's recollection, he 16:22:18
16 cannot recall attempting to sell his 16:22:20
17 personal data, but because Plaintiff Byatt 16:22:23
18 could sell his personal data to websites 16:22:26
19 like Killi and similar websites, the 16:22:29
20 personal data that Google has unlawfully 16:22:31
21 intercepted while Plaintiff Byatt was in 16:22:34
22 private browsing mode has inherent value 16:22:37
23 and Google unlawfully collected that 16:22:40
24 personal data without providing 16:22:42
25 compensation to Plaintiff Byatt."

Page 212

1 So I'm talking about this 16:22:47
2 inherent value concept that you have in 16:22:48
3 your interrogatory response. Do you 16:22:51
4 believe that information related to your 16:22:53
5 browsing in Incognito mode has more 16:22:57
6 inherent value than information related to 16:23:00
7 your browsing in non-Incognito mode? 16:23:03

8 MR. LEE: Objection to form, 16:23:07
9 asked and answered, also compound. 16:23:07

10 A. I believe it has value. I 16:23:11
11 don't -- I can't say with specificity the 16:23:16
12 relative pricing of various points of data 16:23:18
13 so I just -- I just don't know what the -- 16:23:28
14 the specific relative pricing looks like, 16:23:30
15 but I am confident that my behavior in 16:23:34
16 Incognito has value. 16:23:39

17 BY MS. TREBICKA: 16:23:39

18 Q. Do you believe that particular 16:23:43
19 pieces of data that are related to your 16:23:44
20 browsing online in Incognito have 16:23:48
21 independent value, for example, IP 16:23:52
22 address? 16:23:55

23 MR. LEE: Objection to form. 16:23:57

24 A. Yes. I suppose that individual 16:24:02
25 pieces of data have specific value. I 16:24:05

1 will say that -- yeah, so the question 16:24:11
2 strikes me as -- as odd because Google 16:24:18
3 does not intercept and collect the 16:24:21
4 information in individual pieces. They 16:24:24
5 collect, you know, a fair bit of it. So 16:24:26
6 I'm not sure how to disentangle those 16:24:32
7 individual pieces, but, yes, I think the 16:24:37
8 value of that data arises from the pieces 16:24:40
9 of data. So, yeah. 16:24:44

10 BY MS. TREBICKA: 16:24:44

11 Q. And is the value of a specific 16:24:46
12 piece of data, for example, IP address, 16:24:49
13 the same as another specific piece of 16:24:51
14 data, again, in Incognito mode, for 16:24:56
15 example, a referrer header? 16:25:00

16 A. Again, I am not -- I have not 16:25:03
17 specifically priced that data. I do not 16:25:06
18 know the specific prices of these things 16:25:08
19 so I don't know. 16:25:10

20 Q. Okay. What about to you, does 16:25:12
21 an IP address have more value to you or 16:25:15
22 less value or the same value than a 16:25:19
23 referral header? 16:25:23

24 A. I think that would be context 16:25:27
25 dependent, and I'm not sure I can answer 16:25:28

1 that generally. 16:25:31

2 Q. Tell me how it would be context 16:25:31

3 dependent, and I'm speaking here about 16:25:34

4 browsing in Incognito specifically. 16:25:36

5 A. Well, I'm not -- much like the 16:25:38

6 other context-based answers from earlier, 16:25:40

7 I don't have a valuation algorithm in my 16:25:46

8 head, but, depending on what my behavior 16:25:52

9 looks like, what I've done, those values 16:26:03

10 could look different in ways I can't 16:26:07

11 necessarily just predict, sitting here. 16:26:12

12 But there are certainly going to 16:26:15

13 be some referrers that are going to be 16:26:20

14 more valuable to me. There are going to 16:26:23

15 be some IPs that are more valuable to me. 16:26:28

16 I think it will depend a lot on -- on too 16:26:31

17 many details to be able to enumerate. 16:26:35

18 Q. If Google were to pay for your 16:26:39

19 data, do you agree that it could use it 16:26:45

20 including for advertising? 16:26:48

21 MR. LEE: Objection to form, 16:26:51

22 incomplete hypothetical. 16:26:53

23 A. Yeah, so if Google were to pay 16:26:56

24 and fully disclose what they were doing 16:27:03

25 and obtain my consent, that's a lot of 16:27:09

1 ifs, then sure, yeah. 16:27:15

2 MS. TREBICKA: Let me mark as 16:27:25

3 the next exhibit, which is Exhibit 21, 16:27:27

4 your responses and objections to 16:27:30

5 Google's third set of interrogatories 16:27:33

6 number 11. 16:27:36

7 MR. LEE: Can we just get a time 16:27:39

8 check as to how long we've been on the 16:27:40

9 record before we get into the 16:27:42

10 document? 16:27:45

11 THE VIDEOGRAPHER: Hour 20. 16:27:46

12 MR. LEE: Hour 20. Do you mind 16:27:48

13 if we take a break? We can do it 16:27:51

14 after this document, Viola, if that's 16:27:52

15 better for you, but should be -- 16:27:52

16 MS. TREBICKA: I'm literally 16:27:54

17 just going to put it into the record. 16:27:56

18 MR. LEE: Okay. 16:27:57

19 MS. TREBICKA: So -- okay. 16:27:59

20 Let's -- I'll do it quickly. 16:27:59

21 (Exhibit 21, Plaintiff William 16:28:01

22 Byatt's Verified Objections and

23 Response to Defendant's Third Set of

24 Interrogatories (No. 11), marked for

25 identification.)

1 accurate, to the best of my knowledge and 16:41:39
2 belief. 16:41:40

3 Q. Okay. 16:41:40

4 MS. TREBICKA: And this actually 16:41:41
5 says "verified objections and 16:41:42
6 responses," but the verification, I 16:41:44
7 understand was not received with this 16:41:47
8 document. I -- I understand it's been 16:41:49
9 received today and we will put it into 16:41:52
10 the record. I just wanted the record 16:41:54
11 to be clear. 16:41:57

12 BY MS. TREBICKA: 16:41:57

13 Q. If you could take a look at 16:42:09
14 interrogatory 16, the answer to 16:42:11
15 interrogatory 16 that -- in the middle of 16:42:13
16 page 2, lines -- between lines 15 and 16, 16:42:15
17 the paragraph that starts with "Google has 16:42:22
18 demonstrated a willingness"; do you see 16:42:23
19 that? 16:42:27

20 A. I do. 16:42:27

21 Q. Do you see that this 16:42:28
22 paragraph -- and take your time to 16:42:29
23 review -- but this paragraph and the next 16:42:31
24 have certain examples of data that -- I'm 16:42:34
25 sorry -- have certain examples of consumer 16:42:40

1 research companies or other companies that 16:42:43
2 you contend demonstrate a willingness to 16:42:45
3 pay consumers; is that right, as a general 16:42:48
4 matter? 16:42:50

5 A. Yes, I see that, and -- and it 16:42:51
6 says that. 16:42:53

7 Q. And were you aware of these 16:42:54
8 consumer research companies before this 16:42:58
9 litigation? 16:43:01

10 A. I couldn't say exactly when I 16:43:04
11 became aware of them specifically. I was 16:43:07
12 aware that, you know, paid consumer 16:43:09
13 research exists. I -- yeah. So I would 16:43:13
14 say generally, I was aware of -- of the 16:43:22
15 existence of companies like this. I 16:43:25
16 cannot say specifically when I became 16:43:27
17 aware of the names of individual 16:43:29
18 companies. 16:43:32

19 Q. Have you ever tried to sell your 16:43:33
20 data to any of these companies listed 16:43:34
21 here? 16:43:37

22 A. I have done paid consumer 16:43:38
23 research, but a very long time ago and not 16:43:45
24 in relation to Google. 16:43:48

25 Q. What do you recall about that? 16:43:51

1 A. I recall that they wanted me to 16:43:53
2 say whether the Gatorade tasted icy blue 16:43:57
3 or cool blue. 16:44:01

4 Q. Was that an online research -- 16:44:02

5 A. No. That -- I'm sorry for 16:44:05
6 talking over you. That was in person in 16:44:06
7 Jacksonville in my childhood. I think I 16:44:10
8 was 14. 16:44:14

9 Q. If you direct your attention to 16:44:14
10 that first example in -- that relates to 16:44:19
11 Ipsos, it says here "Ipsos Screenwise 16:44:26
12 Panel (a consumer research study conducted 16:44:41
13 by Ipsos for Google) provides users 16:44:41
14 rewards and, in exchange, Ipsos collects 16:44:44
15 information on how users use the Internet. 16:44:47
16 Participants can earn \$20 for 16:44:50
17 participating in the study, an additional 16:44:52
18 \$100 value if they join and install the 16:44:56
19 special Wi-Fi router, and up to \$16 for 16:44:59
20 each household member (age 13 or older) 16:45:06
21 who joins with their device"; do you see 16:45:10
22 that? 16:45:12

23 A. I do see that. 16:45:12

24 Q. Would you ever participate in -- 16:45:13
25 in this Ipsos research study? 16:45:15

1 A. I couldn't say. I wouldn't rule 16:45:19
2 it out. 16:45:22

3 Q. Do you think that the -- that 16:45:25
4 your data while participating in -- in 16:45:27
5 such a research study is worth these 16:45:30
6 amounts that it says here, Ipsos and/or 16:45:33
7 Google are willing to pay for it? 16:45:37

8 MR. LEE: Objection to form and 16:45:39
9 vague as to Incognito data or 16:45:42
10 non-Incognito data. 16:45:43

11 A. Yeah. I -- I -- I don't think 16:45:48
12 that I am qualified to say what a fair 16:45:56
13 market value price of the data is. I 16:46:02
14 mean, if people are signing up to it -- 16:46:10
15 signing up for it, it's worth these prices 16:46:14
16 to somebody. But I can't -- I can't say 16:46:17
17 for sure whether these are accurate values 16:46:21
18 to me. 16:46:26

19 BY MS. TREBICKA: 16:46:26

20 Q. And -- and I'm not asking for 16:46:29
21 the market value price of the data. I'm 16:46:33
22 asking as it relates to you and your data 16:46:35
23 in particular. And let's take it in 16:46:38
24 steps. 16:46:41

25 For Incognito browsing sessions, 16:46:42

1 would you allow Ipsos and Google or for 16:46:46
2 Google to collect information as described 16:46:51
3 in this exhibit, in this paragraph, for 16:46:56
4 the amounts described in this paragraph? 16:47:00

5 A. I'm uncomfortable with the 16:47:05
6 speculation because there may be some -- 16:47:07
7 there may be some activity that I would do 16:47:11
8 in Incognito that I may be comfortable 16:47:15
9 selling under some circumstances and at 16:47:22
10 some price point and there may be other 16:47:24
11 activity that I'm not -- I -- I just feel 16:47:27
12 like, you know, I do a lot of different 16:47:32
13 things in -- in Incognito for a lot of 16:47:35
14 different reasons, at a lot of different 16:47:38
15 times. 16:47:40

16 And that behavior is -- is, you 16:47:41
17 know, as I've said, it's very context 16:47:49
18 dependent. So how I would feel about 16:47:51
19 selling particular data at a particular 16:47:55
20 time for a particular price is really hard 16:47:58
21 to say. 16:48:01

22 Q. I direct your attention to the 16:48:04
23 next paragraph, it starts with "companies 16:48:05
24 other than Google," starting on -- between 16:48:08
25 lines 22 and 23. I'll read it into the 16:48:11

1 record and you can read along. 16:48:14

2 "Companies other than Google 16:48:16

3 have demonstrated a similar willingness to 16:48:18

4 pay consumers for their data. Additional 16:48:20

5 examples include: Nielson Computer & 16:48:23

6 Mobile Panel pays up to \$50 per year for 16:48:27

7 passive data collection of a user's 16:48:30

8 internet behavior"; do you see that? 16:48:32

9 A. I do see that. 16:48:34

10 Q. Would you be willing to sell -- 16:48:35

11 to sell your Incognito private browsing 16:48:38

12 behavior for up to \$50 per year for this 16:48:43

13 passive data collection described here? 16:48:47

14 A. Same answer as previously. It's 16:48:50

15 too hard to say about some of the behavior 16:48:53

16 and others being priced differently. 16:48:58

17 Q. Okay. And what about 16:49:03

18 MobileXpression Panel, the next example, 16:49:04

19 "similarly provides compensation for" -- 16:49:08

20 "to users for passive collection of their 16:49:10

21 data, including browsing and purchasing 16:49:12

22 behavior"? 16:49:14

23 Would you be willing to sell 16:49:15

24 your Incognito private browsing behavior 16:49:18

25 to MobileXpression Panel for similar 16:49:20

1 compensation? 16:49:23

2 A. Same answer as the previous two. 16:49:25

3 There's too many variables to -- to say 16:49:27

4 broadly. 16:49:29

5 Q. Okay. Would that same answer -- 16:49:30

6 answer apply to the rest of the values 16:49:32

7 listed here in this interrogatory 16:49:35

8 response? 16:49:37

9 A. Give me just a moment. 16:49:39

10 Q. Sure. 16:49:41

11 A. Yes, I'd say so. 16:49:51

12 Q. All right. 16:49:54

13 MS. TREBICKA: I think we are 16:49:57

14 done with interrogatories responses. 16:49:59

15 And I understand that counsel has 16:50:01

16 served on us today, your verifications 16:50:04

17 for certain of these interrogatory 16:50:07

18 responses, and I'd like to mark it for 16:50:09

19 the record as Exhibit 24 -- oh, I 16:50:11

20 apologize, it is not Exhibit 24. 16:50:21

21 Tracy, could you please unmute 16:50:23

22 and tell us which exhibit it is. 16:50:24

23 MS. GAO: They have not been 16:50:28

24 marked. I can mark those now. 16:50:34

25 MS. TREBICKA: Okay. While we 16:50:37

Page 227

1 the verifications, and we have agreed 17:41:22
2 that these verification pages will be 17:41:25
3 appended to Exhibit 19, Exhibit 22, 17:41:28
4 and Exhibit 23 and that, with 17:41:33
5 counsel's agreement, we will be 17:41:36
6 sending those particular pages to the 17:41:38
7 production department of the court 17:41:42
8 reporter so that the exhibits can be 17:41:44
9 amended pursuant to this agreement, 17:41:48
10 and I understand that Mr. Lee agrees 17:41:50
11 to all of this. 17:41:52
12 MR. LEE: Correct. 17:41:54
13 MS. TREBICKA: With that, Google 17:41:56
14 has no further questions. 17:41:58
15 MR. LEE: Okay. 17:42:00
16 EXAMINATION 17:42:00
17 BY MR. LEE: 17:42:00
18 Q. Mr. Byatt, I only have a very 17:42:03
19 limited set of questions. If you could 17:42:05
20 pull up what's been previously marked as 17:42:07
21 Exhibit 9. 17:42:09
22 A. I have that open. 17:42:14
23 Q. Okay. And do you recall counsel 17:42:15
24 for Google asking you questions about this 17:42:16
25 document? 17:42:19

1	A. I do.	17:42:20
2	Q. And prior to today's deposition,	17:42:20
3	had you ever seen this document before?	17:42:23
4	A. Not that I recall.	17:42:24
5	Q. And do you know how you would	17:42:26
6	access this page through Google's website	17:42:29
7	or in any other way?	17:42:32
8	A. No.	17:42:35
9	MS. TREBICKA: Objection. So,	17:42:35
10	Mr. Byatt, now it's my turn to object.	17:42:36
11	So just give me a beat, please.	17:42:40
12	Objection to form, leading.	17:42:43
13	BY MR. LEE:	17:42:43
14	Q. Okay. You recall the -- the	17:42:47
15	areas of this document on the first page	17:42:51
16	that counsel for Google asked questions	17:42:54
17	about?	17:42:57
18	A. Yes, I do.	17:42:58
19	Q. And anywhere in that -- in	17:43:00
20	that -- under that section "Your activity	17:43:02
21	might still be visible to you," does it	17:43:04
22	say Google anywhere in those -- those	17:43:07
23	primary bullets?	17:43:14
24	MS. TREBICKA: Objection to	17:43:16
25	form.	17:43:17

1 MR. LEE: You know what, let me 17:43:17
2 re-ask it. 17:43:18
3 BY MR. LEE: 17:43:18
4 Q. Under "Your activity might still 17:43:19
5 be visible," where it states the first two 17:43:21
6 bullets that reference websites, is there 17:43:24
7 any reference to Google there? 17:43:27
8 A. There is not. 17:43:30
9 MS. TREBICKA: Same objection. 17:43:31
10 BY MR. LEE: 17:43:31
11 Q. Does it say -- does it make any 17:43:37
12 reference to Google Analytics in those 17:43:39
13 first two bullets? 17:43:43
14 MS. TREBICKA: Same objection. 17:43:44
15 A. It does not. 17:43:45
16 BY MR. LEE: 17:43:45
17 Q. Does it make any reference to 17:43:46
18 Google Ad Manager in those bullets? 17:43:49
19 MS. TREBICKA: Same objection. 17:43:53
20 A. It does not. 17:43:53
21 BY MR. LEE: 17:43:53
22 Q. Does -- is there any indication 17:43:55
23 in this document that -- that the language 17:43:56
24 here somehow replaces or supersedes 17:44:01
25 Google's privacy policy or the Incognito 17:44:04

1 splash screen? 17:44:08

2 MS. TREBICKA: Same objection. 17:44:10

3 A. Not that I particularly see. 17:44:11

4 BY MR. LEE: 17:44:11

5 Q. And when you were asked 17:44:13

6 questions about this document, do you 17:44:15

7 recall that you gave an answer and you -- 17:44:20

8 you requested that you -- you get to add a 17:44:22

9 little more to your answer, but you 17:44:25

10 weren't able to do so because another 17:44:28

11 question was interposed? 17:44:31

12 A. I do recall that. 17:44:34

13 MS. TREBICKA: Objection, 17:44:34

14 misstates the record. 17:44:35

15 Go ahead. 17:44:37

16 BY MR. LEE: 17:44:37

17 Q. Just for the clarity of the 17:44:41

18 record, would you like to complete your 17:44:42

19 answer that you weren't able to give when 17:44:44

20 counsel for Google was examining you? 17:44:46

21 MS. TREBICKA: Objection, calls 17:44:47

22 for a narrative, leading. 17:44:49

23 A. Still answer? 17:44:53

24 BY MR. LEE: 17:44:53

25 Q. Yeah. 17:44:54

Page 256

1	A. Yeah. So what I was going to	17:44:55
2	say was that I understand how -- you know,	17:44:58
3	it's this use of the word might still be	17:45:04
4	visible to websites you visit including	17:45:06
5	the ads and resources on those sites. I	17:45:08
6	understand that Chrome and Google wouldn't	17:45:11
7	necessarily be responsible for how	17:45:14
8	Facebook ads or some other advertiser	17:45:18
9	works, but I would expect them to know and	17:45:22
10	be able to represent to me specifically	17:45:24
11	what Google is doing.	17:45:27
12	MR. LEE: Thank you, Mr. Byatt.	17:45:33
13	I have no further questions.	17:45:34
14	MS. TREBICKA: No cross.	17:45:36
15	MR. LEE: All right. I think	17:45:40
16	we're done.	17:45:41
17	MS. TREBICKA: Thank you. Thank	17:45:46
18	you, all.	17:45:46
19	THE VIDEOGRAPHER: This	17:45:47
20	completes today's deposition. The	17:45:47
21	time is 5:45 p.m.	17:45:49
22	MR. LEE: Belle, for the	17:45:57
23	plaintiff, we'd like to order the	17:45:59
24	rough. We'll take an expedite as	17:46:01
25	well.	17:47:12

Page 257